

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Harouche	Team: Squad #16	CCRB Case #: 201506705	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/11/2015 5:30 PM	Location of Incident: Merrick Boulevard near Farmers Boulevard and Belknap Street	Precinct: 113	18 Mo. SOL 2/11/2017	EO SOL 2/11/2017	
Date/Time CV Reported Wed, 08/12/2015 10:32 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/12/2015 10:32 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Lewis	25652	941054	113 PCT
2. POM Derrick Coleman	22912	950219	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Lewis	Abuse: PO Matthew Lewis stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Derrick Coleman	Abuse: PO Derrick Coleman stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Matthew Lewis	Abuse: PO Matthew Lewis questioned § 87(2)(b)	
D.POM Matthew Lewis	Abuse: PO Matthew Lewis searched the vehicle in which § 87(2)(b) was an occupant.	
E.POM Matthew Lewis	Abuse: PO Matthew Lewis refused to provide his name and shield number to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On August 11, 2015, § 87(2)(b)'s vehicle was pulled over after he crossed through the intersection of Merrick Boulevard and Farmer's Boulevard, by PO Matthew Lewis and PO Derrick Coleman of the 113th Precinct (**Allegations A and B**). PO Lewis approached § 87(2)(b)'s driver's door, asked him for his license and registration while also asking him if he was on probation (**Allegation C**). § 87(2)(b) was then asked to step out of his vehicle. PO Lewis then searched § 87(2)(b)'s vehicle (**Allegation D**). PO Lewis then allegedly refused to provide his name and shield number to § 87(2)(b) (**Allegation E**). § 87(2)(g), § 87(4-b)
§ 87(2)(b) was not summonsed or arrested as a result of this incident.

There is no video footage of this incident.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of December 10, 2015, a Notice of Claim inquiry is pending from the NYC Comptroller's office.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- § 87(2)(b) has filed a total of three CCRB complaints, all within the past year. § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- PO Lewis has been a member of service for nine years, has had 20 prior CCRB complaints with 53 prior charges, seven of which have been substantiated against him. In case #201202903 a vehicle stop, vehicle search, frisk and search of a person allegations were substantiated against him; the CRB recommended charges and the NYPD disposition is still pending. In case #201401420, physical force, threat of force and discourtesy allegations were substantiated against him; the CCRB recommended charges and the NYPD disposition is still pending. § 87(2)(g), § 87(4-b)
§ 87(2)(b)
- PO Derrick Coleman has been a member of service for four years and has had two prior CCRB complaints, none of which have been substantiated.

Findings and Recommendations

Allegations not pleaded

- Abuse of Authority: § 87(2)(g)
§ 87(2)(b) according to § 87(2)(b) PO Coleman provided a name to § 87(2)(b) which § 87(2)(b) did not remember at the time of his CCRB interview, § 87(2)(b) just

did not believe that PO Coleman provided his real name. § 87(2)(g)

Allegation A – Abuse of Authority: PO Matthew Lewis stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: PO Derrick Coleman stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b)'s vehicle was stopped and that he was not issued any summonses for any vehicle infractions.

§ 87(2)(b) stated that when he was pulled over, PO Lewis told him that he had been stopped because he was texting and because he ran a red light. § 87(2)(b) denied that he had been on his cell phone and explained that he had been looking down at the vehicle's radio. § 87(2)(b) also denied that he had run a red light because he remembered that he had not been paying attention to the light and another vehicle honked at him once the light had turned green (Board Review 1).

Both PO Lewis and PO Coleman stated that § 87(2)(b)'s vehicle was stopped because he had been texting and because he ran a red light (Board Review 2, Board Review 3).

If officers have probable cause to stop a person for a traffic violation, that stop is lawful, regardless of whether the officers' true motives for the stop was to investigate something else, People v. Robinson, 2014 NY App. Div. LEXIS 7787 (Board Review 12).

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Matthew Lewis questioned § 87(2)(b)

Allegation D – Abuse of Authority: PO Matthew Lewis searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Lewis questioned § 87(2)(b) about being on probation and that he searched § 87(2)(b)'s vehicle § 87(2)(g).

On the date of this incident, § 87(2)(b) denied that there was any smell of marijuana in his vehicle as he does not smoke marijuana. § 87(2)(b) alleged that PO Lewis searched under the driver's seat, inside the arm rest, inside the glove box, under the front passenger's seat and in the back seat of his vehicle (Board Review 1). PO Lewis however stated that he only searched the front driver's seat area of § 87(2)(b)'s vehicle (Board Review 2). PO Coleman corroborated PO Lewis's statement (Board Review 3).

An inquiry which focuses on possible criminality and could lead a reasonable person to believe that they are suspected of some wrong doing, is a common law inquiry which requires founded suspicion of criminality, People v. Hollman, 79 N.Y.2d 181 (Board Review 8). Additionally, if a vehicle is lawfully stopped and an officer smells the odor of marijuana, the officer has probable cause to search the vehicle and its occupants, People v. Smith, 66 A.D.3d 514 (1st Dept. 2009) (Board Review 9). The discovery of marijuana in a motor vehicle justifies a full scale search for additional contraband. People v. Coggins, 175 A.D.2d 924 (Board Review 7).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Abuse of Authority: PO Matthew Lewis refused to provide his name and shield number to § 87(2)(b)

It is disputed whether PO Lewis refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that when he asked PO Lewis for his name, PO Lewis said his name was “Sleeve” and then when § 87(2)(b) asked PO Lewis to see his badge number, PO Lewis moved his body so that § 87(2)(b) could not see the badge that was hanging from his neck (Board Review 1).

PO Lewis did not remember if § 87(2)(b) asked him for his name but he remembered giving his name to § 87(2)(b) because he had a conversation with him that consisted of telling § 87(2)(b) that his last name was “Lewis” § 87(2)(b). PO Lewis denied that he moved his body away from § 87(2)(b) so that he could not see his badge number (Board Review 2). PO Coleman corroborated PO Lewis’s statement (Board Review 3).

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]
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Squad: _____

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date